



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Service Ventures, Inc.

**File:** B-233740.3

**Date:** August 24, 1989

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### DIGEST

1. Solicitation which requires bidders to determine for themselves applicable sections of directives, instructions and regulations incorporated by reference in their entirety into solicitation does not impose an undue burden on bidders, and does not constitute a solicitation defect, where all documents are made available to bidders for their examination and there is no evidence that bidders cannot readily discern the applicable sections by reviewing the cited materials.

2. Claim for protest costs on basis that agency took corrective action remedying alleged solicitation defects in response to protest is denied, since award of protest costs is contingent upon issuance of decision on merits finding that agency violated a statute or regulation in the conduct of a procurement.

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### DECISION

Service Ventures, Inc., protests the terms of invitation for bids (IFB) No. N62474-88-B-6167, issued by the Naval Facilities Engineering Command for physical security services at two government facilities. Service Ventures principally contends that the solicitation unreasonably requires bidders to determine the applicability of certain military directives, instructions and regulations to this procurement. Service Ventures also seeks reimbursement of its costs incurred in filing and pursuing this protest. We deny the protest and the claim.

The solicitation specifies that the contractor is to become familiar with governing Department of Defense, Secretary of the Navy, Chief of Naval Operations, and other directives, instructions and regulations incorporated by reference into the solicitation to ensure the contractor's compliance with all applicable military requirements concerning the

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performance of security preventive services. The solicitation initially listed 51 such directives, instructions and regulations. Subsequently, after the filing of Service Ventures' protest, the Navy amended the IFB by reducing the number of governing directives to 27, and also informed prospective bidders that copies of the applicable materials would be available for review at the contracting facility.

Service Ventures argues that the corrective measures taken by the Navy were inadequate in that the IFB still incorporates by reference literally thousands of pages of irrelevant directives, instructions and regulations, thereby requiring the bidders to decide which, if any, of the sections of these cited documents are applicable to this procurement. Service Ventures maintains that it is unreasonable to place this burden on bidders, and that by doing so the contracting activity is virtually ensuring that different bidders will reach different conclusions as to the actual requirements of the contract.

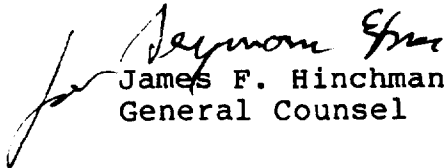
We disagree. As the protester correctly notes, the contracting activity bears the burden of identifying and describing the government's minimum needs by citing applicable specifications and standards. Federal Acquisition Regulation (FAR) § 10.004. Only in this manner can the contracting activity ensure that bidders are apprised in clear and unambiguous terms what is required of them so that they can compete on a common basis. See Newport News Shipbuilding and Dry Dock Co., B-221888, July 2, 1986, 86-2 CPD ¶ 23. However, the contracting activity need not draft a solicitation with such detail and precision so as to eliminate all performance uncertainties or to address every possible eventuality. See Ameriko Maintenance Co., B-224087, Dec. 19, 1986, 86-2 CPD ¶ 686. Rather, incorporation of substantive terms and conditions into a contract by reference to other documents generally is a proper method of contract drafting. Uffner Textile Corp., B-215991, Nov. 30, 1984, 84-2 CPD ¶ 591.

Here, although bidders are required to ascertain for themselves those sections of the referenced governing directives specifically applicable to this procurement, we do not think that this fact alone precludes the conduct of a fair and equal competition or otherwise renders the solicitation defective. While it appears that many of the approximately 3,500 pages of referenced materials are either irrelevant or redundant, the contracting activity has afforded prospective bidders the opportunity to examine each of the referenced directives at the facility, and Service Ventures has not alleged, and the record does not suggest, that bidders cannot readily discern the sections applicable

to the procurement from a review of the cited directives. In this regard, we note that the IFB contains a detailed description of the required services; we agree with the Navy that, based on this description, bidders should be able to determine which sections of the referenced directives apply. Indeed, Service Ventures' protest submissions indicate that it has been able to determine which sections of the directives are applicable, and which are redundant or irrelevant. The IFB is not deficient merely because it requires bidders to undertake an effort Service Ventures considers burdensome. See PTI Servs., Inc., B-225712, May 1, 1987, 87-1 CPD ¶ 459.

Service Ventures also argues that since the Navy amended the IFB to delete 24 of the originally listed governing directives in response to its protest, it should be reimbursed its costs of filing and pursuing this protest. As recognized by Service Ventures, however, we have held that the awarding of such costs is contingent upon our issuing a decision on the merits holding that the contracting activity violated a statute or regulation in the conduct of a procurement. See, e.g., Monarch Painting Corp., B-220666.3, Apr. 23, 1986, 86-1 CPD ¶ 396. As we have found no such violation here, and find no basis for reversing our position in this area, Service Ventures is not entitled to reimbursement of its protest costs.

The protest and claim are denied.

  
James F. Hinchman  
General Counsel